

38. (Amended) The sanitary napkin of claim 35, wherein the anchoring of said garment attachment panel configures said sanitary napkin so that each side edge of said crotch portion of said undergarment is supported approximately beneath a side edge of said absorbent and said absorbent is free to conform to the body of the user.

39. (Amended) The sanitary napkin of claim 35, wherein said fixed portions of said garment attachment panels are disposed so that the right side and the left side of said crotch portion of said undergarment are each restrained adjacent to a side edge of said absorbent pad and prevented from overlaying said absorbent pad.

#### REMARKS

Reconsideration is requested.

Claims 35-44 are now presented. Claims 1-34 have been cancelled.

Claims 35, 36, 38 and 39 have been amended. An Appendix showing amendments to the claims, *i.e.*, marked up with brackets and underlining to show the amendments made, is presented herewith, in accordance with 37 CFR § 1.121(c)(1)(ii).

#### REQUEST FOR CITED REFERENCES

It is noted with appreciation that the Examiner has reviewed the U.S. patents cited in the IDS filed February 26, 2002, even though copies of the references cited in parent Application Serial No. 08/600,317, filed February 13, 1996, had not been furnished (in accordance with 37 CFR 1.98(d)(1)), and parent Application Serial No. 08/600,317 was unavailable. The Examiner was able to review copies of the cited U.S. patents, but he requested that copies of the references other than U.S. patents, as the file of parent Application Serial No. 08/600,317 was, at the time of preparing the Office Action of April 9, being prepared for issue. On May 15, 2002, the undersigned conferred with Examiner Ruhl by telephone, advising that parent Application Serial No. 08/600,317 had issued May 14, 2002, as U.S. Patent 6,387,084, and inquiring whether, in view of that circumstance, copies of the references were still requested. Examiner Ruhl advised that yes, copies of the references were still requested. Accordingly, presented herewith is a

Supplemental Information Disclosure Statement. For the Examiner's convenience, the previously cited references are cited again, and new 1449 forms are provided, so that the Examiner may acknowledge the references considered.

#### FORMAL REJECTIONS

Claims 35-44 have been rejected under 35 USC § 112, second paragraph, as being indefinite in various particulars. With respect to Claim 35, the Examiner finds the language "wherein a garment attachment point is defined where said fixed and said free portions meet each other" unclear. Applicants' specification discusses attachment points at, for example, page 10, lines 10-13. However, the definition of a garment attachment point is not seen to be necessary in the claims as now presented, so the language found by the Examiner to be unclear is deleted.

With respect to Claim 35, the Examiner also finds the language "said fastener elements being configured as to provide anchoring means" unclear. The Examiner points out that Claim 35 previously recites "including means for anchoring said free portions", so that it was unclear to the Examiner whether the language "said fastener elements being configured as to provide anchoring means" was intended to indicate the presence of two sets of anchoring means, or whether the language was intended to refer to the previously-recited anchoring means. It is believed that those of ordinary skill in the art would recognize that the language was intended to refer to and further define the previously-recited anchoring means. However, Claim 35 is amended to further clarify that that is the case.

With respect to Claim 35, the Examiner additionally finds the language "to provide anchoring means", in "said fastener elements being configured as to provide anchoring means", unclear as to the function of the anchoring means. Since Claim 35 is amended to further clarify that the language was intended to refer to and further define the previously-recited anchoring means, the function of the anchoring means is clearly defined, *i.e.*, "for anchoring said free portions of said garment attachment panels so as to establish a predetermined deflection of said side edges and to facilitate accurate mounting of said sanitary napkin on said undergarment" as recited earlier in Claim 35.

With respect to Claim 36, the Examiner finds no antecedent basis for the language "the predetermined particular confinement" (of said side edges of said crotch portion of said undergarment). Recitation of the predetermined particular confinement of the side edges of the crotch portion of the undergarment is not seen to be necessary in the claims as now presented, so the language found by the Examiner to be unclear is deleted.

With respect to Claim 38, the Examiner finds no antecedent basis for the language "the lateral disposition" (of said fixed portion of said garment attachment panel). Recitation of the lateral disposition of the fixed portion of the garment attachment panel is not seen to be necessary in the claims as now presented, so the language found by the Examiner to be unclear is deleted.

With respect to Claim 39, the Examiner finds no antecedent basis for the language "each side" of said crotch portion of said undergarment. The reference is to the right and left sides of the crotch portion of the undergarment. Undergarments inherently have right and left sides, so there is no need to provide explicit antecedent basis for the recitation of right and left sides.

#### DOUBLE PATENTING REJECTION

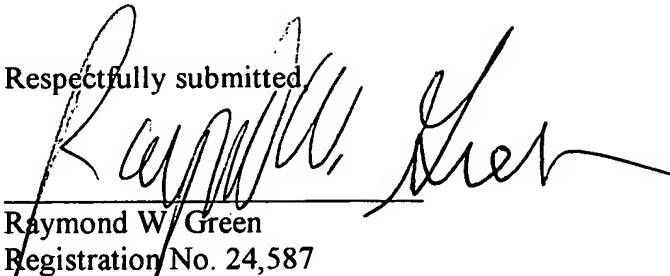
Claims 35-44 have been provisionally rejected under the judicially-created doctrine of "obviousness type" double patenting over application claims 35-44 of copending parent Application Serial No. 08/600,317, filed February 13, 1996. The Examiner requires a terminal disclaimer to overcome the rejection. As noted above, parent Application Serial No. 08/600,317 issued May 14, 2002, as U.S. Patent 6,387,084. Accordingly, a terminal disclaimer is enclosed, referring to U.S. Patent 6,387,084. The rejection should be withdrawn.

#### CONCLUSION

Reconsideration, withdrawal of the rejections, and allowance of all claims now presented, namely Claims 35-44, are courteously requested. The claims have been amended in view of the Examiner's formal objections. A terminal disclaimer is presented to overcome the double patenting rejection. The references requested by the Examiner are enclosed.

Accordingly, the Application appears to be in condition for allowance, both as to form and over the prior art. Such action is respectfully requested.

Respectfully submitted

  
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APPENDIX SHOWING AMENDMENTS TO THE CLAIMS

(Paul T. Van Gompel et al. Serial No. 10/005,522, filed December 3, 2001)

35. (Amended) A sanitary napkin for mounting onto the bodyside of a crotch portion of an undergarment, and, during use, absorbing bodily excretions, comprising:

an elongated absorbent pad having a longitudinal axis, a longitudinally extending central portion and opposite longitudinal side edges, said side edges being deflectable with respect to said central portion, and including an absorbent contained between a bodyside, liquid-permeable cover and a garment side, liquid-impermeable baffle; and

control means for selectively controlling deflection of said side edges during use, said control means being anchorable under said crotch portion of said undergarment, said anchoring establishing a generally downward pull on said side edges and preventing said side edges from folding in toward said absorbent, wherein said control means comprises first and second opposite garment attachment panels, extending generally downward and inward from an underside of said absorbent pad adjacent to said side edges; and

wherein said garment attachment panels include a fixed portion attached to the underside of said absorbent pad toward said side edge and a free portion diverging from the underside of said absorbent pad for, during use, extending under said crotch portion of said undergarment [, wherein a garment attachment point is defined where said fixed and said free portions meet each other]; and

including means for anchoring said free portions of said garment attachment panels so as to establish a predetermined deflection of said side edges and to facilitate accurate mounting of said sanitary napkin on said undergarment, and

wherein said means for anchoring said free portions of said garment attachment panels comprises mating fastener elements, one on each of said garment attachment panels, said means for anchoring said free portions [fastener elements] being configured [as to provide anchoring means], on one of said garment attachment panels, in a width of from about 0.25 to about 1.0 inches; and [to provide anchoring means,] on the other of said garment attachment panels, in a width of from about 0.25 to about 3.0 inches.

36. (Amended) The sanitary napkin of claim 35, wherein the predetermined deflection of said side edges [and the predetermined particular confinement of said side edges of said crotch portion of said undergarment] biases said absorbent pad into an upwardly convex form, closely fitting the body.

38. (Amended) The sanitary napkin of claim 35, wherein [the lateral disposition of said fixed portion of said garment attachment panel and] the anchoring of said garment attachment panel [configure] configures said sanitary napkin so that each side edge of said crotch portion of said undergarment is supported approximately beneath a side edge of said absorbent and said absorbent is free to conform to the body of the user.

39. (Amended) The sanitary napkin of claim 35, wherein said fixed portions of said garment attachment panels are disposed so that [each] the right side and the left side of said crotch portion of said undergarment [is] are each restrained adjacent to a side edge of said absorbent pad and prevented from overlaying said absorbent pad.